

**Woodstock Zoning Board of Appeals
Tuesday, September 8, 2015
Regular Meeting– 7:00 p.m.
Town of Woodstock Town Hall, lower level, Meeting Room B**

MINUTES

I. Public Hearing

- a. Call to Order – Meeting was called to order by Chair Martin Nieski at 7:00 p.m.
- b. Roll Call - William Brower, Martin Nieski, Suzanne Woodward, Mary St. Onge, Ray Smith, Tina Lajoie, (ZBA Clerk).

c. 15-02 Arthur & Dianna Rebello, 171 Green Road – Map 5703, Block 10, Lot 28) – seeking relief from minimum front yard setback for accessory structure.

Public Hearing notification is read for the record by Chair Nieski. Arthur & Dianna Rebello are present and state the following to support their request for a 17 foot variance to allow a garage/barn to be constructed within the 75 foot front yard setback.

The Rebello's state that the property is very difficult being sloped on both sides and limits them with the placement of a garage/barn. Proposed dimensions of the building would be 16' x 24'. Site was visited by some of the ZBA members. There were photographs submitted for the record showing the site. **MOTION BY W. BROWER TO CLOSE PUBLIC HEARING, SECONDED BY S. WOODWARD. MOTION CARRIED UNANIMOUSLY.**

II. Designation of Alternates – Ray Smith is seated as alternate in the absence of Robert Laurens

III. Review of minutes – May 26, 2015

MOTION BY S. WOODWARD TO APPROVE THE MINUTES AS PRESENTED, SECONDED BY W. BROWER. MOTION CARRIED UNANIMOUSLY.

IV. Unfinished Business

15-02 Arthur & Dianna Rebello, 171 Green Road – Map 5703, Block 10, Lot 28) – seeking relief from minimum front yard setback for accessory structure.

Board discusses how they might decide this application. Not an unreasonable request, in general, with the layout of the property. However it may be considered a self-imposed hardship, as stated by Chairman Nieski, and by law the Board cannot approve a variance under this circumstance. Alternative location is discussed. The following excerpt is read for the record from the workshop manual issued by Attorney Steven E. Byrne under self-inflicted hardship, "Where the claimed hardship arises from the applicant's voluntary act, the board lacks any authority to grant a variance. This includes a situation where property is purchased in a zone where the purchaser knew that his desired use is not permitted as well as where an owner sells off property, leaving a parcel too small for the use he wants to put the land to. This is known as the 'purchase with knowledge rule'. However, where the hardship

arises as the result of a voluntary act by one other than the one requesting the variance, the board may grant the variance. An example would be where a purchaser of a home discovered his house did not have the required side yard due to an error by the surveyor hired by the architect. In contrast, a builder was not entitled to a variance where either its building contractor or surveyor made an error in locating a foundation within a side yard.”

It was the general consensus that the property owners purchased the lot as is and built their home fully understanding the limitations and therefore would consider the hardship as self-imposed. **MOTION TO APPROVE APPLICATION 15-02 FOR A 17 FOOT VARIANCE BY W. BROWER, SECONDED BY S. WOODWARD. Discussion: After careful discussion, as much as the Board understands the property owner’s dilemma, they believe that they do not have the authority to approve such a request. MOTION FAILS UNANIMOUSLY.**

V. New Business

VI. Correspondence & Bills

- a. Legal ad, Stonebridge Press, Ryan Norman, \$73.00 – Bill signed by Chair

VII. Other

VIII. Citizen’s Comments

IX. Adjournment

**MOTION TO ADJOURN AT 7:24 P.M. BY W. BROWER / R. SMITH.
MOTION CARRIED UNANIMOUSLY.**

Respectfully Submitted,

Tina M. Lajoie, Clerk
Zoning Board of Appeals